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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:
Koji HORISAKI

GROUP: 2416

SERIAL NO: 10/798,351

EXAMINER: HARPER, K.

FILED: March 12, 2004

FOR: METHOD AND DEVICE FOR FREQUENCY ADJUSTMENT

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s). No more than five (5) pages are provided.

I am the attorney or agent of record.

Respectfully Submitted,

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

Claims 1-8 and 11-18 are pending in this case.

In the outstanding Office Action, Claims 1-6, 8-12, and 14-18 were rejected under 35 U.S.C. 102(e) as anticipated by Rick, et al., (US Pub. No. 2005/0078774, herein "Rick")¹; and Claims 7 and 13 were rejected under 35 U.S.C. 103(a) as unpatentable over Rick in view of Applicant's admitted prior art (herein "AAPA").

Applicant respectfully traverses the rejections of the pending claims. Specifically, as set out at item 4 of the guide for the Pre-Appeal Brief Conference Pilot Program, Applicant asserts that a *prima facie* rejection is not established in this case because the Examiner has omitted an essential element of a *prima facie* rejection by ignoring or misinterpreting at least the below discussed features of the independent claims.

Claim 1 is directed to a frequency adjustment method and includes:

receiving a signal having a first signal and a second signal, the first signal having a short cycle time and the second signal having a long cycle time longer than the short cycle time;

detecting a deviation of a frequency of the first signal contained in the received signal and the received signal delayed by a first delay time corresponding to the short cycle time;

detecting a deviation of a frequency of the second signal contained in the received signal and the received signal delayed by a second delay time corresponding to the long cycle time;

determining a deviation of a frequency of the received signal on the basis of the detected deviation of the first signal and that of the second signal; and

adjusting the frequency of the received signal on the basis of the determined frequency deviation.

The outstanding Office Action asserts Rick as teaching every element of Claim 1.

¹ In light of the cancellation of Claims 9 and 10, the rejection is understood by Applicant to refer to Claims 1-6, 8, 11, 12, and 14-18.

Rick describes averaging frequency error estimates over different integration lengths to generate short-term averages, or averages of frequency error over shorter integration lengths, and long-term averages, or averages of frequency error over longer integration lengths. In Rick, as described at paragraph [0012], when the short-term average value exceeds a threshold value, the oscillator frequency is adjusted as a function of the short-term average value, and when the long-term average value exceeds a threshold value, the oscillator frequency is adjusted as a function of the long-term average value.

However, Rick does not teach or suggest at least ‘determining a deviation of a frequency of the received signal **on the basis of the detected deviation of the first signal and that of the second signal**; and **adjusting the frequency of the received signal on the basis of the determined frequency deviation**,’ as recited by Claim 1. As discussed above, oscillator frequency of Rick is adjusted as a function of either the short-term average value or the long-term average value but not “on the basis of the determined frequency deviation” which is determined “on the basis of the detected deviation of the first signal **and** that of the second signal,” as recited by Claim 1. As described at paragraph [0012] of Rick, the long-term average value is determined with a superset of frequency error estimate values that make up the short-term average value. However, as depicted at Fig. 3 of Rick, memory is updated and the long-term average value is reset if oscillator frequency is adjusted as a function of the short-term average value. Thus, a long-term average value that triggers adjustment of oscillator frequency does not also include frequency error values of a short-term average value that triggered adjustment of oscillator frequency.

Because Rick does not teach or suggest at least the above-discussed features of Claim 1, Applicant respectfully requests that the rejection under 35 U.S.C. § 102(e) of Claim 1 and Claims 2-6, which depend therefrom, be withdrawn.

Claims 8 and 14, though differing in scope and statutory class from Claim 1, patentably define over Rick for similar reasons as Claim 1. Thus, Applicant respectfully requests that the rejection under 35 U.S.C. § 102(e) of Claim 8, Claims 11 and 12, which depend therefrom, Claim 14, and Claims 15-18, which depend therefrom, be withdrawn.

Claim 7 depends from Claim 1 and Claim 13 depends from Claim 8. Therefore, Claims 7 and 13 patentably define over Rick for at least the same reasons as Claims 1 and 8. Further, AAPA, asserted at page 3 of the outstanding Office Action as teaching “applying the frequency adjusting technique to OFDM,” does not cure the deficiencies of Rick discussed above. Thus, Applicant respectfully request that the rejection of Claims 7 and 13 under 35 U.S.C. § 103(a) be withdrawn.